

§ 337.10 Failure to appear for oath administration ceremony.

An applicant who fails to appear without good cause for more than one oath administration ceremony for which he or she was duly notified shall be presumed to have abandoned his or her intent to be naturalized. Such presumption shall be regarded as the receipt of derogatory information, and the procedures contained in § 335.5 of this chapter shall be followed.

[58 FR 49916, Sept. 24, 1993]

PART 338—CERTIFICATE OF NATURALIZATION

Sec.

338.1 Execution and issuance of certificate.

338.2 Execution in case name is changed.

338.3 Delivery of certificates.

338.4 [Reserved]

338.5 Correction of certificates.

338.6–338.10 [Reserved]

338.11 Execution and issuance of certificate of naturalization by clerk of court.

338.12 Endorsement by clerk of court in case name is changed.

338.13 Spoiled certificate.

AUTHORITY: 8 U.S.C. 1103, 1443; 8 CFR part 2.

§ 338.1 Execution and issuance of certificate.

(a) *Issuance.* When an applicant for naturalization has taken and subscribed to the oath of allegiance in accordance with §§ 337.1, 337.2 and 337.3 of this chapter, a Certificate of Naturalization, Form N-550, shall be issued by the Service at the conclusion of the oath administration ceremony. For each applicant appearing at a judicial oath administration ceremony pursuant to § 337.8, the Service shall prepare the Certificate of Naturalization and forward it to the clerk of court sufficiently in advance of the ceremony to ensure the timely delivery on the date the oath administration ceremony is conducted.

(b) *Execution of certificate.* The certificate shall be issued to the applicant in his or her true, full, and correct name as it exists at the time of the administration of the oath of allegiance. The certificate shall show, under “former nationality,” the name of the applicant’s last country of citizenship, as

shown in the application and Service records, even though the applicant may be stateless at the time of admission to citizenship. Photographs shall be affixed to the certificate in the manner provided in part 333 of this chapter. The certificate shall be signed by the applicant. The Commissioner’s signature shall be affixed to the certificate.

[58 FR 49916, Sept. 24, 1993]

§ 338.2 Execution in case name is changed.

Whenever the name of an applicant has been changed by order of a court as a part of a naturalization, the clerk of court, or his or her authorized deputy, shall forward a copy of the order changing the applicant’s name with the notifications required by part 339 of this chapter. The Certificate of Naturalization will be issued to the applicant in the name as changed.

[56 FR 50501, Oct. 7, 1991]

§ 338.3 Delivery of certificates.

No Certificate of Naturalization will be delivered in any case in which the naturalized person has not surrendered his or her Permanent Resident Card to the Service. Upon a finding that the card is destroyed or otherwise unavailable, the district director may waive the surrender of the card and the Certificate of Naturalization shall then be delivered to the naturalized person.

[56 FR 50501, Oct. 7, 1991, as amended at 63 FR 70316, Dec. 21, 1998]

§ 338.4 [Reserved]**§ 338.5 Correction of certificates.**

(a) Whenever a Certificate of Naturalization has been delivered which does not conform to the facts shown on the application for naturalization, or a clerical error was made in preparing the certificate, an application for issuance of a corrected certificate, Form N-565, without fee, may be filed by the naturalized person. The application shall be filed at the Service office having jurisdiction over the place of residence of the applicant.

(b) If the certificate was originally issued by a clerk of court under a prior statute and the district director finds that a correction is justified and can be

made without mutilating the certificate, he or she shall authorize the clerk of the issuing court, or his or her authorized deputy, on Form N-459, in duplicate, to make the necessary correction and to place a dated endorsement on the reverse of the certificate, over the clerk's or deputy's signature and the seal of the court, explaining the correction. The authorization shall be filed with the naturalization record of the court, the corrected certificate shall be returned to the naturalized person, and the duplicate Form N-459 shall be endorsed to show the date and nature of the correction and endorsement made, and then returned to the district director. No fee shall be charged the naturalized person for the correction. The district director shall forward the duplicate endorsed authorization to the official Service file.

(c) If the certificate was originally issued by the Service, and the district director finds that a correction was justified, the necessary correction shall be made to the certificate and a dated endorsement made on the reverse of the certificate, over the signature of the district director and the seal of the Department of Justice. A notation regarding the correction shall be placed on the Form N-565 which shall be forwarded to the Service file.

(d) When a correction made pursuant to paragraph (b) or (c) of this section would or does result in mutilation of a certificate, the district director shall issue a replacement certificate on Form N-570 and the surrendered certificate shall be destroyed.

(e) The correction will not be deemed to be justified where the naturalized person later alleges that the name or date of birth which the applicant stated to be his or her correct name or date of birth at the time of naturalization was not in fact his or her name or date of birth at the time of the naturalization.

[56 FR 50501, Oct. 7, 1991]

§§ 338.6–338.10 [Reserved]

§ 338.11 Execution and issuance of certificate of naturalization by clerk of court.

(a) When a petitioner for naturalization, whose petition for naturalization

was filed prior to October 1, 1991, has taken and subscribed to the oath of allegiance, and a final order of citizenship has been signed by the court, a certificate of naturalization shall be issued in duplicate by the clerk of court on Form N-550 (rev. 11-1-87) or N-550C. If the court maintains naturalization records using the certificate stub, the certificates and the stub of the original certificate shall be signed by the petitioner. If the court maintains naturalization records on an electronic database then only the certificates shall be signed by the petitioner and the information contained on the stub shall be entered into and maintained in the court's electronic database.

(b) The certificate shall show under "former nationality" the name of the country of which the petitioner was last a citizen, as shown on the petition, even though the petitioner may have been stateless at the time of admission to citizenship. The clerk of court or the authorized deputy shall endorse the alien registration number on the certificate stub, or if using automation equipment, ensure it is part of the electronic database record. The clerk of court or the authorized deputy shall personally sign the certificate, and ensure that the essential facts from the certificate are on the stub or entered into the electronic database record. Both certificates and stubs shall be prepared in one operation unless an automated system is used. Photographs shall be affixed to the original and duplicate certificates in the manner prescribed in 8 CFR part 333.

(c) The stub of the original certificate or the information recorded from the stub that is maintained on the electronic database shall be retained by the clerk of court. Courts using the certificate stub shall file and maintain the stub in a 3"x5" card file container. The electronic record shall be maintained in an accessible database with a back-up system to ensure protection and integrity of data. The original certificate shall be delivered to the petitioner. The duplicate certificate shall not be separated from the stub, and shall be forwarded to the appropriate